

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Foresthill Fire Protection District) File No. 0009254474
Request for Waiver of Section 90.242(b)(4)(iv))
of the Commission's Rules)

ORDER

Adopted: October 12, 2021

Released: October 12, 2021

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. On March 31, 2021, the Foresthill Fire Protection District (FFPD) filed an application and waiver request to modify its Travelers' Information Station (TIS) to expand its service area so that it may provide a 2 mV/m signal at 5.25 kilometers from the TIS transmitter site.1 A waiver is required because section 90.242(b)(4)(iv) of the Commission's rules2 limits TIS station coverage to 2 mV/m at 1.5 kilometers from the TIS transmitter site.3 We grant the waiver request as consistent with the public interest.

II. BACKGROUND

2. FFPD serves a remote community in Placer County, California.4 FFPD currently uses its TIS station WRKC868 to provide "critical information to residents and travelers in the event of an emergency or disaster."5 FFPD states that it is prone to hazards including "floods, wildland fire, earthquakes, landslides, hazardous material spills, limited communications reliability, and other events."6 FFPD requests waiver of the field intensity limitation to allow for a larger coverage pattern than normally allowed by the rules.7 FFPD states that "Foresthill has only one access and egress route and therefore it is imperative that early warning and evacuation announcements be made through multiple communication platforms."8 FFPD contends that, due to extended PG&E Public Safety Power Shutoffs, its TIS "may be the only means of reliably providing critical information to members of the public, as they are likely to

1 See File No. 0009476948 and accompanying Waiver Request of Foresthill Fire Protection District (filed Mar. 31, 2021) (Waiver Justification). Foresthill's TIS operates on frequency 1020 kilohertz in the AM radio band under call sign WRFC301.

2 47 CFR § 90.242(b)(4)(iv).

3 See id. ("The field strength of the emission on the operating frequency shall not exceed 2 mV/m when measured with a standard field strength meter at a distance of 1.50 km (0.93 miles) from the transmitting antenna system.")

4 See File No. 0009476948, attached Letter from John Michelini, Board President, Foresthill Fire Protection District, to Federal Communications Commission, at 1 (dated Dec. 30, 2020) (FFPD Letter).

5 Id.

6 Id.

7 47 CFR § 90.242(b)(4)(iv).

8 FFPD Letter at 1.

have functioning battery-powered radio receivers.”⁹ FFPD argues that the enhanced signal coverage would “maintain the adequate coverage area within and adjacent to our District for emergency services” and “would provide service to the areas which lack service now.”¹⁰ FFPD argues that “it is estimated that multiple TIS stations – and the addition of synchronization equipment that would be required to produce the desired coverage – would greatly multiply the cost to service the same area.”¹¹

III. DISCUSSION

3. Section 1.925(b)(3) of the Commission’s rules provides that: “the Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.”¹² An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹³

4. We find that FFPD has met the waiver standard. FFPD provided an engineering study that demonstrates the lack of interference to the closest co-channel and adjacent channel stations.¹⁴ FFPD also specifically demonstrated that it complies with the TIS spacing rule¹⁵ in section 90.242(a)(2)(i) of the Commission’s rules.¹⁶

5. With respect to the Commission’s waiver criteria,¹⁷ we agree with the FFPD’s contention that the purpose of section 90.242(b)(4)(iv)—to protect broadcasters from TIS interference—would not be served if applied to the instant matter because FFPD has demonstrated the lack of interference from its proposed TIS facility.¹⁸ In addition, strict adherence to section 90.242(b)(4)(iv) would have the unintended effect of requiring FFPD to install additional expensive TIS facilities to realize expanded

⁹ *Id.* at 2. FFPD notes that extended power outages eliminate other alerting platforms, such as email and cell phone notifications. *Id.*

¹⁰ FFPD Letter at 1.

¹¹ Waiver Justification at 1.

¹² 47 CFR § 1.925(b)(3).

¹³ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

¹⁴ File No. 0009476948, attached Interference Study prepared by Doug Vernier, Telecommunication Consultants (dated Mar. 31, 2021) demonstrating compliance with 47 CFR § 73.37 governing co-channel, first adjacent, second adjacent, and third adjacent channel separation.

¹⁵ The TIS spacing rule in 47 CFR § 90.242(a)(2)(i) provides that the transmitting site of the TIS Station must be located at least 15 km (9.3 miles) measured orthogonally outside the measured 0.5 mV/m daytime contour (0.1 mV/m for Class A stations) of any AM broadcast station operating on a first adjacent channel and at least 130 km (80.6 miles) outside the measured 0.5 mV/m daytime contour (0.1 mV/m for Class A stations) of any AM broadcast station operating on the same channel.

¹⁶ When FFPD initially applied for its TIS authorization, FFPD demonstrated that its TIS station is outside the 0.5 mV/m contour of the nearest co-channel station operating on 1020 kilohertz (KTNQ, Los Angeles, CA) by 305 miles; outside the 0.5 mV/m contour of the nearest first adjacent station operating on 1010 kilohertz (KIQI, San Francisco, CA) by 65 miles; and outside the 0.5 mV/m contour of the nearest first adjacent station operating on 1030 kHz (KJDJ, San Luis Obispo, CA) by 195 miles. See File No. 0009254474, Foresthill Fire Protection District (filed Oct. 12, 2020). We find that this analysis is still valid today.

¹⁷ See 47 CFR § 1.925

¹⁸ Waiver Justification.

coverage.¹⁹ We agree with FFPD that section 90.242(b)(4)(iv) was not intended to impose an unnecessary cost burden on agencies responsible for informing the traveling public.²⁰

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and section 1.925 of the Commission's rules, 47 CFR § 1.925, that the Request for Waiver of the Foresthill Fire Protection District, filed on March 31, 2021, **IS GRANTED**.

7. **IT IS FURTHER ORDERED** that application File No. 0009476948, filed by the Foresthill Fire Protection District **SHALL BE PROCESSED** in accordance with this Order and the Commission's rules.

8. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

¹⁹ *Id.*

²⁰ *Id.*